

160.305: Patient Rights

(A) The licensee shall make every effort to safeguard the legal and civil rights of each patient. Each licensee shall adopt and maintain a currently updated set of agency rules which shall state the responsibilities and the rights of patients.

(B) Specific Patient Rights. The licensee shall guarantee patient freedom from physical and psychological abuse. At a minimum, these rights shall include freedom:

- (1) From strip searches,
- (2) To have control over his/her bodily appearance as long as one's appearance does not conflict with the program's policy regarding health, hygiene and treatment plan,
- (3) To examine his/her patient record,
- (4) To challenge information in his/her patient record by inserting a statement of clarification,
- (5) To terminate treatment at any time, unless committed to treatment under M.G.L. c. 123, § 35,
- (6) From signing over his/her public assistance, food stamps, or other income to the licensee except when it is part of a mutual treatment agreement signed by both the patient and the licensee,
- (7) To be informed of his/her patient rights,
- (8) To bathe, shower and meet personal hygiene needs in a reasonable manner at a reasonable time,
- (9) To have regular physical exercise, when clinically appropriate,
- (10) To wear his/her own clothes, unless clinically contraindicated,
- (11) To send and receive sealed letters. Where the licensee deems it necessary, mail shall be inspected for contraband in the presence of the patient.
- (12) To be given regular and private use of a pay telephone, and,
- (13) To have visitors at reasonable times. Visits by the patient's attorney and personal physician shall not be limited.

(C) The agency rules shall also include a written grievance procedure for the resolution of any patient related problem or dispute which arises within the agency.

(D) Prior to any enacting of a rule modifications affecting the areas listed in 105 CMR 160.305(B), the licensee shall submit a written justification to Department prior to implementing such a change.

160.310: Policies

(A) Each licensee shall describe, in writing, the agency's current personnel policies and practices and shall make them available to all staff members.

(B) Such personnel policies shall include a description of:

- (1) The criteria and procedures for hiring, assigning, promoting, and suspending or dismissing a staff member.
- (2) The procedure for handling staff complaints and grievances.
- (3) Provisions for vacations, holidays, paternity and maternity leave, educational leave, sick leave, and other leaves of absence, and fringe benefits.
- (4) Procedures for disciplinary actions.
- (5) Procedures for work performance appraisal.

160.311: Job Descriptions

(A) The licensee shall make available job descriptions of all positions which include salary ranges.

(B) The licensee shall evaluate the job performance of all staff members. Such evaluation shall be done annually and a copy placed in the employee's record.

160.312: Personnel Records

- (A) The licensee shall maintain a personnel record for each employee.
- (B) Such records shall be kept confidential and at a minimum contain:
 - (1) A copy of the employee's application for employment or resume;
 - (2) Evidence that the employee is currently certified, licensed or registered where applicable laws require certification, licensure, or registration;
 - (3) Evidence of training received; and
 - (4) Annual performance evaluations;
 - (5) Evidence of annual Tuberculin skin tests.

160.313: Training

- (A) The licensee shall provide ongoing staff training and supervision appropriate to the size and nature of the agency and staff involved.
- (B) The licensee shall have a written plan for the professional growth and development of all personnel. At a minimum, this plan shall include:
 - (1) Staff training in the requirements of appropriate state and federal laws and regulations;
 - (2) Orientation procedures; and
 - (3) Regular and scheduled in-service training programs.

160.314: Volunteers

Volunteers and student interns may be used only as an adjunct to regular paid staff and not as a substitute for a paid workforce. Student interns and volunteers providing individual and/or group counseling shall be screened, oriented, trained and supervised in a manner consistent with 105 CMR 160.000.

160.320: Staffing Pattern

The agency shall provide adequate and qualified personnel for administrative, medical, clinical and support services necessary to fulfill the service objectives and to satisfy the intent of 105 CMR 160.000.

160.321: Multidisciplinary Team

- (A) In order to meet patient needs a multidisciplinary team shall be employed which includes professionals with a variety of expertise. The team may include physicians, psychiatrists, psychologists, social workers, nurses, substance abuse counselors with Masters or Bachelor degrees in a related field and certified substance abuse counselors.
- (B) The agency shall ensure that patients have access to this expertise on-site or on an on-call basis to the extent required to meet their needs.
- (C) Cases presenting unique issues or of special educational value to staff shall be presented to the multidisciplinary team for consideration. A summary of the multidisciplinary case conference must be included in the patient record.

160.322: Minimum Staffing Requirements

- (A) The staff of the service must include:
 - (1) A Medical Director,
 - (2) Two full time equivalent registered nurses one of whom may be in a supervisory capacity, one each for two of the three work shifts,
 - (3) A full time licensed practical nurse for the remaining shift, and,
 - (4) A minimum of one full-time Clinician II.
- (B) The licensee shall provide adequate supervision for the clinical/educational operation of the service.

160.323: Consultation and Supervision

- (A) A Registered Nurse supervisor must be available for adequate supervision and ongoing consultation for all nursing staff.
- (B) Consultation to nursing staff must be available 24 hours per day, seven days per week from a fully qualified physician or psychiatrist, either on site or through an affiliation agreement.
- (C) A Clinician I (with the exception of the individual cited in 105 CMR 160.322(B)), shall receive a minimum of one hour of individual or group consultation every two weeks and an additional minimum of one hour per month if he/she is responsible for supervising other staff.
- (D) A Clinician II shall receive a minimum of one hour of individual or group supervision each week.
- (E) A Clinician III shall receive two hours of individual supervision and an additional two hours of individual or group supervision per month.
- (F) Staff who are not full-time employees of the service shall receive supervision in proportion to the number of hours worked, with a minimum of one hour of supervision per month.
- (G) Consultation to staff must be available from a fully qualified physician or psychiatrist, either on-site or through an affiliation agreement. If services are to be available through an affiliation agreement, this agreement shall be reaffirmed yearly.
- (H) Documentation of supervision must be available for review.

160.400: Hours of Operation

The service shall provide care 24 hours a day, seven days per week.

160.401: Admission

- (A) Each licensee shall establish written admission eligibility criteria and shall make such criteria available to prospective patients upon application for admission. A copy of the criteria shall be posted conspicuously in an area frequented by all patients.
- (B) Each licensee shall establish a formal intake procedure for potential new admissions and re-admissions. During the intake session the licensee shall accumulate and record all pertinent patient information to effectively evaluate a patient's eligibility for the service and his/her service needs.
- (C) Patients who do not meet eligibility requirements or who are inappropriate for the agency's service shall, where need exists, be referred to an appropriate service, person, agency or court.
- (D) Each licensee shall maintain a log of applications denied admission.
- (E) Upon admission into treatment, or as soon as the patient is medically cleared, the licensee shall obtain and shall make a part of the patient record:
 - (1) A consent to treatment form,
 - (2) For patients receiving methadone, Form FD-2635, and,
 - (3) When the patient is under the age of 18, except in the case of an emancipated minor, the consent form shall be signed by the patient and the patient's parent or legal guardian.

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wing and harvesting of forest products of livestock including horses, the enterprise, the keeping and raising domesticated animals used for food, and any practices, including any performed by a farmer, who is hereby defined as herein defined, or in conjunction with such farming operation, delivery to storage or to market.

11, 1995, effective July 1, 1995.

n "Farming" or "Agriculture" for one which farming in all its branches and the cultivation, growing and harvesting of any products, the raising of livestock including cattle and other domesticated animals used in any practices, including any forestry or other is hereby defined as one engaged in farming as an incident to or in conjunction with or market, delivery to storage, or to market

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§ 24F

SUPPLEMENT TO CHAPTERS 111-111D

C. 111

§ 3. Certain Duties of the Public Health Council.

Total Client-Service Library® References—
8 Mass Proc, Administrative Procedure § 12:3.

§ 5. Powers and Duties of the Department, in General.

Total Client-Service Library® References—
8 Mass Proc, Administrative Procedure § 12:1.

§ 8. May Prohibit use of Common Drinking Cups and Towels; Penalty.

Total Client-Service Library® References—
8 Mass Proc, Administrative Procedure § 11:42.

§ 13. Certificates of Results of Analyses; Evidence; Judicial Notice of Signature.

CASE NOTES

1. In general

Judge properly accepted certificates of analysis as creating rebuttable presumption that pills seized from defendant's pocket. Commonwealth v. Navarro (1995) 39 Mass App 161, 654 NE2d 71.

§ 24F. Health Care Access Fund.

There shall be established and set up on the books of the commonwealth a separate fund to be known as the Health Care Access Fund. There shall be credited to said fund the following: (a) all fees assessed or generated from programs authorized pursuant to this section; (b) revenues generated pursuant to paragraph (a) of section twenty-eight of chapter sixty-four C; (c) to the extent available, federal financial participation made available under Title XIX of the Social Security Act, or its successor statute, to match the costs of the uncompensated care pool and to the extent such monies are authorized to be transferred to said fund pursuant to general or special law; (d) all interest earned on monies within said fund; and (e) and voluntary contributions and premiums paid by enrollees in said programs.

Amounts credited to the Health Care Access Fund shall be used for the following purposes, subject to appropriation:

(i) to fund a program of primary and preventive health care for children from birth through age eighteen as defined in section twenty-four C; provided, however, that the department may transfer to the division of medical assistance amounts equal to the cost of providing medical benefits pursuant to section nine A of chapter one hundred and eighteen E to children eligible for such benefits;

(ii) to establish a program of managed care within community health centers pursuant to regulations promulgated by the department; provided, however, that the department may transfer funds to the division of medical assistance to provide medical benefits pursuant to section nine A of chapter one hundred and eighteen E equal to the cost of providing such benefits to persons eligible for said program.

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(iii) to fund a universal immunization program to be administered by the department; and

(iv) a program of medical respite services provided by the Boston health care for the homeless program.

History—

Added by 1996, 151, § 257, approved June 30, 1996, by § 690, effective July 1, 1996.

Amended by 1996, 203, § 5, approved with emergency preamble, July 24, 1996, effective July 24, 1996.

Editorial Note—

The 1996 amendment, in the second paragraph, substituted clauses (i) and (ii) for ones which read:

"(i) to fund a program of primary and preventive health care for the benefit of dependent and adoptive children from birth through age twelve established pursuant to section twenty-four G of chapter one hundred and eleven, as added in this act;"

"(ii) to establish a program of managed care within community health centers pursuant to regulations promulgated by the department;"

§ 24G. Primary and Preventive Health Care Services for Uninsured Dependent and Adopted Youths.

There is hereby established a program of managed care to provide primary and preventive health care services for uninsured dependent and adopted youths from birth through age eighteen. Said program shall be administered by the department subject to appropriation from the health care access fund established pursuant to section twenty-four F of chapter one hundred and eleven and other appropriated funds. Services available from the program shall include the following:—

(1) preventive pediatric care in a participating doctor's office, community health center, health maintenance organization or school-based clinic, including not less than one well-child visit a year, immunizations, tuberculin testing, hematocrit, hemoglobin and other appropriate blood testing, urinalysis, and routine tests to screen for lead poisoning, and such services as are periodically recommended by the American Academy of Pediatrics; provided that services provided by a participating independent laboratory for diagnostic laboratory tests shall be reimbursed by said program;

(2) unlimited sick visits in a participating doctor's office, community health center, health maintenance organization, school-based clinic or a patient's home;

(3) first-aid treatment and follow up care, including the changing or removal of casts, burn dressings or structures, in a participating doctor's office, community health center, health maintenance organization or school-based clinic;

(4) the provision of smoking prevention educational information and materials to the parent, guardian or person with whom an enrollee resides.

Services made optionally available under said program may include the following:

(1) prescription drugs up to one hundred dollars per year, provided that enrollees shall be responsible for a co-payment of three dollars for

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each interchangeable drug prescription and four dollars for each brand-
name drug prescription;

(2) urgent care visits in the outpatient department of a participating
hospital when an enrollee's primary care practitioner is not available to
provide such services, and emergency care in the outpatient department
or emergency department of a participating hospital of up to one
thousand dollars per year, including related laboratory and diagnostic
radiology services for said urgent and emergency care, provided that
rates of reimbursement for such urgent care and emergency services are
negotiated by participating hospitals with the department or its desig-
nated vendor;

(3) outpatient surgery and anesthesia which is medically necessary for
the treatment of inguinal hernia and ear tubes, but not including the
professional component for related radiology or pathology services;
provided that rates of reimbursement for such urgent care and emer-
gency services are negotiated by participating hospitals with the depart-
ment or its designated vendor;

(4) medically necessary eye examinations

(5) medically necessary outpatient mental health services not to
exceed thirteen visits per year.

The department shall establish cost-containment measures designed to
ensure that only medically necessary services are reimbursed by said
program. The schedule, scope, maximum dollar coverage and duration of
the optional benefits established by this section may be revised by the
department to ensure that the costs of said program are limited to the
funds appropriated therefor.

The cost of said program shall be funded in part by premiums contrib-
uted by enrollees according to the following eligibility categories: house-
holds earning less than two hundred percent of the federal poverty level
shall not be responsible for contributing to program premium costs;
households earning between two hundred and four hundred percent of
the federal poverty level, inclusive, shall contribute not less than twenty
percent and not more than thirty percent of the monthly premium cost
according to a sliding scale established by the department; provided, that
additional contributions shall not be required for any enrollee after the
third enrollee in such a household; and provided further, that enrollees in
households earning more than four hundred percent of the federal poverty
level shall pay the full premium cost of said program. Household earnings
may be defined on the basis of gross earnings, or on an adjusted basis ac-
cording to criteria deemed appropriate by the department. The depart-
ment shall base premium costs on an actuarially sound methodology.
Premiums contributed by enrollees shall be deposited in the health care
access fund established pursuant to section twenty-four F of chapter one
hundred and eleven and may be used for the said program subject to ap-
propriation.

Notwithstanding the premium contribution requirements established by
this section, no enrollee shall be exempt from the co-payment require-
ments established herein or by the department. Said co-payments shall be

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designed to encourage the cost-effective and cost conscious use of said services.

The department shall promulgate regulations necessary to implement the requirements of this section. The division of medical assistance shall assist said department to maximize federal financial participation for state expenditures made on behalf of program enrollees.

The department shall report quarterly to the house and senate committees on ways and means and to the joint committee on health care on enrollment demographics, claims expenditures and the annualized costs of said program. The department shall file notice with said committees and the secretaries of the executive office of administration and finance and family services not less than thirty days before modifying program benefits and eligibility standards that are intended to ensure that program costs are limited to the funds appropriated therefor.

The program established by this section shall not give rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein and nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement.

History—

Added by 1996, 151, § 257, approved June 30, 1996, by § 690, effective July 1, 1996.

Amended by 1996, 203, § 6, approved with emergency preamble, July 24, 1996, effective July 24, 1996.

Editorial Note—

The 1996 amendment substituted the first sentence for one which read: "There is hereby established a program of managed care to provide primary and preventive health care services for uninsured dependent and adopted youths from birth through age twelve."

(CONSTRUCTION OR CHANGE IN SERVICES OF HEALTH CARE FACILITIES)

§ 25B. Definitions Applicable to Sections 25B to 25G.

In this section and sections twenty-five C to twenty-five G, inclusive, the following words shall have the following meanings:

[No change through definition "Department".]

[Definition "Health care facility" is amended to read as follows:]

"Health care facility", a hospital, institution for the care of unwed mothers or clinic, as defined in section fifty-two; a long-term care facility, which is an infirmary maintained in a town, a convalescent or nursing home, a rest home or a charitable home for the aged, as defined in section seventy-one; a clinical laboratory subject to licensing under chapter one hundred and eleven D; a public medical institution, which is any medical institution, and, after December first, nineteen hundred and seventy-two, any institution for the mentally ill or retarded, supported in whole or in part by public funds, staffed by professional, medical and nursing personnel and providing medical care, in accordance with standards established through licensing, approval or certification for participation in the programs administered under Titles 18 and 19 of the Federal Social Security Act, by the department; and any

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